



3. In their Complaint, Plaintiffs alleged that the Defendant had violated its duty by failing to make a determination within 30 days after it received a December 30, 2020, notification from the West Virginia Department of Environmental Protection (WVDEP) of significant events that affect the West Virginia program. Compl. at ¶¶ 24, 46-47.

4. On August 23, 2021, the Director of OSMRE issued a letter to the Secretary of the WVDEP. *See* ECF Doc. No. 8-1.

5. As a result of the August 23, 2021 letter, Plaintiffs have initially determined that Defendant has resolved the merits of the issues raised by the Complaint. The Parties will use the time afforded by the extension to formalize this initial evaluation, negotiate the resolution of any additional matters, and endeavor to present a complete settlement to the Court.

Respectfully Submitted,

Date: 9/20/2021

/s/ J. Michael Becher  
J. Michael Becher (WV Bar No. 10588)  
Appalachian Mountain Advocates  
P.O. Box 507  
Lewisburg, WV 24901  
(304) 382-4798  
[mbecher@appalmad.org](mailto:mbecher@appalmad.org)

*Counsel for Plaintiffs*

Date: 9/20/2021

TODD KIM  
Assistant Attorney General  
United States Department of Justice  
Environment and Natural Resources Division

/s/ Paul A. Turcke  
PAUL A. TURCKE  
Idaho State Bar No. 4759  
Trial Attorney, Natural Resources Section  
P.O. Box 7611  
Washington, D.C. 20044-7611

Telephone: (202) 353-1389  
Fax: (202) 305-0506  
Paul.Turcke@usdoj.gov

LISA G. JOHNSTON  
Acting United States Attorney  
Southern District of West Virginia

FRED B. WESTFALL, JR.  
W. Va. State Bar No. 3992  
Assistant United States Attorney, Civil Chief  
300 Virginia Street East, Room 4000  
Charleston, WV 25301  
Telephone: (304) 347-5104  
Fax: (304) 347-5104  
Fred.Westfall@usdoj.gov

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I, J. Michael Becher, hereby certify that on September 20, 2021 I filed the foregoing document through the Court's CM/ECF system, which will provide notification and service to the following:

PAUL A. TURCKE  
Idaho State Bar No. 4759  
Trial Attorney, Natural Resources Section  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Telephone: (202) 353-1389  
Fax: (202) 305-0506  
Paul.Turcke@usdoj.gov

FRED B. WESTFALL, JR.  
W. Va. State Bar No. 3992  
Assistant United States Attorney, Civil Chief  
300 Virginia Street East, Room 4000  
Charleston, WV 25301  
Telephone: (304) 347-5104  
Fax: (304) 347-5104  
Fred.Westfall@usdoj.gov

/s/ J. Michael Becher  
J. Michael Becher